

**BEFORE THE LAND USE HEARINGS EXAMINER
OF CLARK COUNTY, WASHINGTON**

Regarding an application by Scott Fakler for)	<u>FINAL ORDER</u>
a preliminary plat to divide 8.2 acres into 41)	PLD 2004-00077
lots in the R1-6 zone at 2112 NE 104 th Street)	SEP 2004-00138
in unincorporated Clark County, Washington)	(Sherwood Hollow West)

A. SUMMARY

1. The applicant requests approval to divide the roughly 8.2-acre site into 41 lots. The applicant proposed to build a new single-family detached dwelling on each of the proposed lots. All proposed lots will comply with the minimum dimensional standards for the R1-6 zone. Clark Public Utilities and the Hazel Dell Sewer District will supply domestic water and sanitary sewer service, respectively. The applicant will dedicate right of way for and build NE 107th Street through the site, connecting the existing stubs at the east and west boundaries of the site. The applicant will extend a new north-south street, proposed NE 21st Court, south from 107th Avenue. The applicant will extend NE 109th Circle as a cul-de-sac street serving lots in the north end of the site. The applicant will dedicate additional right of way and construct frontage improvements along the site's 104th Street frontage. All but two of the proposed lots will have direct driveway access onto the interior streets. Proposed lots 40 and 41 will access NE 104th Street. The applicant proposes to collect storm water from impervious areas and to convey it to the existing storm water facility in the north end of the site, between proposed 107th Avenue and 109th Circle for treatment, detention and discharge to the existing drainage way west of the site at less than predevelopment rates.

2. The County issued a Determination of Nonsignificance ("DNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). Hearings Examiner Joe Turner (the "examiner") conducted a public hearing about the application. County staff recommended that the examiner approve the application subject to conditions. See the Development and Environmental Review Staff Report and Recommendation to the Hearings Examiner dated November 8, 2004 (the "Staff Report"). The applicant accepted those findings and conditions without exceptions. Seven persons testified against the application or with questions and concerns. Other persons testified in writing. Disputed issues or concerns in the case include the following:

- a. Whether the proposed development will increase flooding and drainage problems in the area;
- b. Whether the existing stormwater facilities can accommodate additional runoff from this site;
- c. Whether the applicant is required to dedicate the stormwater facilities to the County to ensure adequate maintenance;

d. Whether area streets can accommodate additional traffic generated by the proposed development;

e. Whether the proposed development makes adequate provisions for students walking to school. RCW 58.17;

f. Whether construction on the site will have a significant impact on surrounding properties;

g. Whether the applicant is required to preserve trees and wildlife habitat on the site;

h. Whether the applicant is required to fence the site;

i. Whether the proposed development will impact cultural resources; and

j. Whether development on the site will be compatible with the surrounding area.

3. Based on the findings provided or incorporated herein, the examiner approves the subdivision subject to the conditions at the conclusion of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The examiner received testimony at a public hearing about this application on November 23, 2004. That testimony and evidence, including a videotape of the public hearing and the case file maintained by the Department of Community Development (“DCD”), are included herein as exhibits, and they are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Alan Boguslawski summarized the Staff Report and showed photographs of the site.

a. He noted that the County received comment from the Cowlitz Indian Tribe, the Washington Department of Ecology (the “DOE”) and two neighbors. Exhibits 19, 20 and 23.

i. The Cowlitz Tribe requested that the County notify it if any cultural artifacts are discovered on the site. He noted that the site is located in an area of “low probability” for cultural artifacts. If any cultural items are discovered during construction on the site, State law requires that the applicant stop work and report the discovery to the state. Failure to do so is a felony. Condition of approval G.3 requires that the applicant place a note to that effect on the face of the final plat. He opined that additional notice is not warranted.

ii. The DOE noted that the site is near a known contaminated site and contaminants may be present on the site. He recommended the examiner add a

condition of approval requiring that the applicant notify its contractors of the potential contamination and report any discoveries as set out in Exhibit 21.

iii. Neighboring residents argued that the existing stormwater detention facility on the site has not been properly maintained and may not have sufficient capacity to accommodate additional runoff from this site. He testified that the existing stormwater facility is privately maintained. In this application the applicant proposed to dedicate the facility to the County. The applicant will be required to demonstrate that the existing facility is improved to County standards and has sufficient capacity to accommodate increased runoff from this site prior to final plat approval and before the County will accept the facility.

iv. Neighbors also argued that the applicant should be required to install a 4-way stop sign at the intersection of NE 107th Street and 20th Avenue. He testified that the County must conduct an engineering analysis to determine whether a 4-way stop is necessary, based on actual traffic volumes and other factors. Neighbors can contact the County Public Works Department to request such a review.

b. He noted that proposed lots 7, 25 and 29 do not meet the minimum 90-foot average depth requirement. Condition of approval A-1 requires that the applicant amend the final plat to comply with the lot depth requirements or obtain approval of an administrative variance.

c. He noted that the intersection of 23rd Avenue and 99th Street is currently operating at a failing Level Of Service ("LOS F"). A previously approved development volunteered to improve the intersection by creating separate southbound left and right turn lanes. Construction of the turn lanes will improve the intersection operation to an acceptable LOS. The applicant in this case should be required to construct the improvements in the event the prior applicant fails to do so. This is required by conditions of approval A-4 and B-1.

3. County concurrency engineer Steve Schulte noted that the conditions of approval for the Royal Ridge and Forest Creek subdivisions require that the developers of those subdivisions design and construct improvements to the 23rd Avenue/99th Street intersection. He requested the examiner modify conditions A-4 to require that the applicant in this case submit intersection designs if those developers have not done so prior to final plat approval of this application.

a. He noted that the proposed extension of 107th Street through the site will create a new east-west connection, which may generate additional traffic on this street. The County will monitor traffic operations, volume and speed on this street after the development is completed to determine whether traffic-calming measures are warranted.

b. He noted that condition of approval B-2 requires that the applicant develop a construction traffic control plan demonstrating how construction vehicles will access the site without impacting surrounding roads. The County will review the plan to

determine whether area streets have adequate width, turning radii, etc. to accommodate construction vehicles as proposed.

c. He argued that the applicant should not be required to provide a pedestrian path between 21st Court and 104th Street, because it would encourage students to cross 104th Street in the middle of the block. A crosswalk at that location would not eliminate the hazard. Crosswalks are safer when located at intersections, where drivers expect pedestrian crossings. The County will work with the School District to relocate the existing bus stop to a safer location.

4. The applicant, Scott Fakler, testified that the stormwater facility on the site was designed to accommodate runoff from all phases of the planned Sherwood Hollow development, including this site. The pond has more than enough capacity to accommodate runoff from the site, because the engineering calculations assumed more impervious area for the site than this development will provide. He accepted the findings and conditions in the Staff Report, as amended, without objections or corrections.

a. He testified that he intends to retain the existing trees on the site to the extent feasible. He will remove trees as necessary to construct streets, install utilities and create building pads on the individual lots. He does not intend to clear cut the site as part of the subdivision development. He intends to sell the lots to individual builders who may choose to remove the trees in order to accommodate larger homes.

b. He noted that the perimeter of the site is currently fenced. He does not intend to install any additional fencing as part of this development.

c. He testified that the majority of construction activity on the site will take place in the spring and summer, when the soils are dry and school is not in session. Therefore construction noise will not have a significant impact on the school.

5. John Wurz testified on behalf of himself and his daughter and son-in-law who live on tax lot 41 on NE 104th Avenue. His daughter's and son-in-law's home is surrounded by the proposed development.

a. He argued that the stormwater detention pond on the site cannot accommodate additional runoff from the site. The pond fills to capacity in the winter under existing conditions. Additional runoff from development on this site may cause the pond to overflow, flooding downstream properties. The application should be denied until the stormwater facilities are repaired and brought into compliance with County standards.

b. He argued that the site provides habitat for a variety of birds and animals. The trees also provide aesthetic benefits for neighboring residents. He submitted a photograph of the trees on the portion of the site abutting his daughter's and son-in-law's home. Exhibit 31. The applicant will remove the majority of the trees to develop the site, eliminating the habitat and aesthetics. He argued that the applicant should be required to install a fence and plant trees along the boundaries of the site to buffer the site from existing homes.

c. He argued that the applicant should be required to provide a pedestrian path between the south end of 21st Court and NE 104th Street to provide pedestrian access to the school south of the site. Children living on the site will travel that way whether a path is provided or not. Therefore the applicant should be required to provide a path, crosswalk and signs to ensure the safety of children walking to school.

d. He expressed concern that runoff from the site may impact the septic drainfield serving his daughter's home. The south end of the site slopes down towards her property. However the applicant's drainage plan does not make any provisions to accommodate runoff from that area.

e. He argued that the examiner should deny a variance to the lot depth requirements to protect surrounding residents.

6. David Newcomb testified that the existing facilities have not been maintained. Silt has been allowed to accumulate in the pond, reducing its capacity. The pond fills quickly, even after small rain events. Condition of approval C-10 notes that the applicant or the homeowners association is responsible for maintenance of the facilities. However there is no guarantee that the applicant will create and fund a homeowners association for that purpose. He argued that the applicant should be required to dedicate the facility to the County to ensure that required maintenance occurs.

7. Gordon Goodman testified that the stormwater pond on the site has not been maintained. The area around the pond is overgrown with blackberries. The applicant should be required to dedicate the pond to the County to ensure it is maintained and the accumulated silt is removed to maintain adequate detention capacity. He argued that runoff from a 100-year flood will overtop the pond and flood his and his neighbors' properties. He argued that the applicant should be required to install a stop sign on northbound 20th Avenue at the intersection with 107th Street to force drivers to slow down.

8. Jason Vrbas argued that the applicant could retain trees in the rear yards of the proposed lots to provide a buffer between the site and existing homes and enhance the aesthetics of the development. He argued that the applicant's environmental checklist is incomplete because it does not include hawks, deer, bear and coyotes, which he has observed on the site. He questioned whether the applicant will limit the hours of construction activity on the site.

9. Lee Morgan questioned whether the applicant would be liable if flooding from a 100-year storm washes out NE 20th Court, a private road. He testified that prior developers failed to maintain the stormwater facilities on the site. The trees and shrubs they planted in the open space tract did not survive.

10. Curtis Achziger, vice president of the NE Hazel Dell Neighborhood Association questioned how the applicant will move construction equipment onto the site. The existing roads in the area are narrow with limited intersection turning radii. The roads were not constructed to accommodate heavy equipment. He questioned whether the

applicant will be liable if construction equipment damages roads, curbs and sidewalks in the area. Noise from construction on the site will impact the elementary school south of the site, preventing students from concentrating.

11. County development engineer Ali Safayi noted that the applicant is required to review the existing stormwater facilities and the downstream conveyance system to ensure that they have adequate capacity to accommodate runoff from the site. The applicant must provide detailed engineering plans demonstrating that the facilities can accommodate runoff generated by a two-year and 100-year storm events. The applicant can modify the existing facility if necessary to accommodate the additional runoff. The applicant is required to demonstrate that runoff from this site will not cause any additional impacts to abutting properties.

a. He testified that the applicant wants to dedicate the stormwater facilities to the County. However all of the owners of the facility must agree to the dedication, including the developers or residents of the prior development phases, and the County must agree to accept the facilities.

b. He testified that the applicant will be required to clean and repair the existing stormwater facilities and confirm that they are functioning as designed prior to dedicating the facilities to the County. Area residents can contact the County Public Works Department if they believe that additional maintenance is warranted. If necessary, the County can conduct necessary maintenance of private facilities and bill the owners of the facilities.

c. He testified that County transportation staff considered requiring a pedestrian access between 21st Court and 104th Street to facilitate pedestrian access between the site and the school. However such a pathway would encourage students to cross 104th Street in the middle of the block. Staff concluded that it would be safer to encourage students to cross at the existing intersections to the east and west of the site. He testified that the County is seeking a grant to fund construction of additional sidewalks on the south side of 104th Street in order to provide continuous pedestrian circulation in the area.

12. Fern Vargas testified that there is an existing bus stop on 104th Street abutting the site. Children living on the site will cut through the lots from 21st Court to access the bus stop. The lack of street lights in the area creates a hazard, because drivers cannot see the students as they wait for the bus.

13. The examiner closed the record at the end of the hearing and announced his intention to approve the application subject to the conditions recommended by County staff as amended at the hearing.

C. DISCUSSION

1. County staff recommended that the examiner approve the preliminary plat, based on the affirmative findings and subject to conditions of approval in the Staff Report as amended at the hearing. The applicant accepted those findings and conditions, as amended, without exception.

2. The examiner concludes that the affirmative findings in the Staff Report, as amended, show that the proposed preliminary plat does or can comply with the applicable standards of the County Code and Revised Code of Washington, provided the applicant complies with recommended conditions of approval as amended herein. The examiner adopts the affirmative findings in the Staff Report as his own, except to the extent they are inconsistent with the findings in this order.

3. The examiner finds that the proposed development will not cause or exacerbate flooding and drainage problems on abutting properties.

a. It is apparent from the topographic maps in the record that surface run-off from the south end of the site flows downhill onto the adjoining properties to the east under existing conditions. The proposed development will increase the amount of impervious surface area on the site. Therefore it will reduce the area where water can infiltrate. Absent any other improvements, that would increase the volume of stormwater run-off discharged off-site.

b. Grading and filling on the site will alter the existing topography and could potentially increase run-off onto adjacent properties. However the Code expressly prohibits such impacts. CCC 40.380.060.C(1)(g) provides that “no development within the urban growth area shall be allowed to materially increase or concentrate storm water runoff onto adjacent property or block existing drainage from adjacent lots.” The examiner finds, based on the applicant’s preliminary stormwater report, that it is feasible to comply with CCC 40.380.060.C(1)(g). The applicant proposes to collect storm water from the site and to divert it to the stormwater facility in the north end of the site. That is likely to reduce any existing offsite flows. There is no substantial evidence to the contrary. The applicant can grade the site to direct runoff away from adjacent properties, install drains near the boundaries of the site or utilize other measures to capture surface water before it leaves the site.

4. The examiner finds that the existing stormwater facilities on the site can accommodate the additional runoff generated by the proposed development, based on the applicant’s preliminary calculations, Exhibit 7, and Mr. Safayi’s expert testimony, Exhibit 16. There is no substantial evidence to the contrary. The applicant is required to provide final engineering plans showing that the proposed development can accommodate flows generated by a 100-year storm without causing additional flooding on or near the site, including an analysis of downstream conveyance facilities. Conditions A-6 and 7.

a. Neighbors testified that additional runoff from this site will exceed the capacity of the existing stormwater facilities and cause flooding on adjacent properties. Neighbors' observations of water levels in the existing detention pond is substantial evidence. But their opinions that additional runoff generated by the proposed development will exceed the capacity of the facilities is not supported by substantial evidence, because they are not experts in such matters. The fears of a substantial increase in runoff volumes flooding could have a devastating effect on adjacent properties. But fear is not evidence, even if reasonable. The examiner finds that the expert testimony by the engineers for the applicant and the County is more persuasive than neighbors' testimony about the impact of stormwater runoff from the proposed development.

b. Neighbors testified that the existing facilities have not been maintained. Silt has accumulated in the pond, reducing its detention capacity. The applicant will need to analyze the detention pond during the final engineering analysis to ensure that the existing facilities have sufficient capacity to accommodate increased runoff. If necessary the applicant can modify the pond to increase its capacity and overcome any problems caused by the lack of prior maintenance.

c. The examiner cannot require that the applicant dedicate the stormwater facilities to the County. County ownership of stormwater facilities is only required where the facilities are located within a public right of way or when "arrangements for private long-term maintenance which are acceptable to the responsible official have not been made." CCC 40.380.040.H(1). The existing stormwater facilities serve several existing developments as well as the future development proposed on this site. All of the owners must agree to dedicate the facilities to the County. In addition, the County must accept such dedication and ongoing maintenance responsibility. CCC 40.380.040.H(2).

d. If the stormwater facilities will be privately maintained, the applicant is required create and fund a method to ensure ongoing maintenance of privately owned stormwater facilities. CCC 40.380.060.C(2)(i)(6)(j) and 40.380.060.D(4)(m). The County has a right to inspect private stormwater facilities to ensure they are properly maintained. If necessary, the County can enter the site, perform the required maintenance and charge the responsible owners for the costs incurred. CCC 40.380.040.H(b)(1). The applicant is required to provide easements for that purpose. CCC 40.380.040.H(b)(2). The enforcement process is largely complaint driven. Neighbors should contact the County Public Works Director if they believe that the stormwater facilities are not being properly maintained.

5. The proposed development will generate increased traffic on area streets. That increased traffic will be perceptible to area residents and will increase congestion in the area. However the County Engineer determined that it will not exceed the capacity of streets nor create a hazard. There is no substantial evidence to the contrary.

a. The examiner acknowledges that more traffic on area streets will increase congestion and resulting delays. Although the examiner assumes that reasonably prudent drivers will observe the posted speed limits in the area, some percentage of the new traffic will speed. However there is no evidence that the proposed development will contribute a disproportionate share of imprudent drivers. If necessary the County can

further address issues of speeding by installing speed bumps and other traffic calming measures. This method retains the benefits of an interconnected street system while limiting impacts where needed. It also allows the County to implement measures designed to address the specific problems that arise, if any, once the connections are completed. The hearings officer has no authority to require that the applicant install additional traffic calming measures in this case. The Code provides sole authority to the County engineer to determine whether traffic-calming measures are warranted as a condition of development approval. CCC 40.350.030.B(13).

i. Neighbors argued that the applicant should be required to install “stop” signs at the intersection of 21st Court and 107th Street. However there is no substantial evidence that these roads will carry sufficient traffic volumes to warrant stop signs.

6. The examiner finds that the proposed development makes adequate provisions for children who walk to school. RCW 58.17. The applicant will construct sidewalks along both sides of all streets within the subdivision. These sidewalks will connect with existing sidewalks to the east that lead directly to the Sara J Anderson Elementary School south of the site and to existing bus stops in the area.

a. A pedestrian path between NE 21st Court and 104th Street would provide a more direct route between the site and the school. However such a path would encourage students to cross 104th Street in the middle of the block. The examiner finds that a crosswalk at this location would not alleviate the hazard, based on the expert testimony of County transportation engineering staff. See Exhibit 16.

b. Mr. Wurz argued that students will use this route regardless of whether the applicant provides a path, because it provides the most direct route between the site and the school. The examiner disagrees. The south end of 21st Court will be separated from 104th Street by two residential lots. Students would have to cut through private yards to reach 104th Street. The owners of those lots are likely to object to such trespass. A similar situation currently exists on 22nd Avenue east of the site. However there is no substantial evidence that students cut through those lots to reach 104th Street and the school.

c. The School District may want to consider relocating the existing school bus stop on 104th Street to alleviate the safety concerns noted by Ms. Vargas. However the examiner has no authority to require that the applicant relocate the bus stop or provide additional improvements to mitigate this existing problem. The examiner recommends that neighbors notify the School District of their concerns so it can review the available pedestrian facilities and the transportation needs of students living in the area.

7. Construction on this site will temporarily cause increased noise, dust, traffic and other impacts on adjacent properties. However the Code does not contain standards regulating construction activities. This is only one of the many consequences of living in an urban area. The applicant is required to obtain County approval of a construction Traffic Control Plan (“TCP”) prior to issuance of building or grading permits, which will

govern all work within or impacting the public transportation system. Condition B-2. The County will review construction vehicle access to the site and other issues noted by Mr. Achziger. The examiner finds that, while construction on the site may cause some adverse impacts on surrounding properties, such impacts are short lived and not significant enough to require specific limitations on construction other than those imposed by State law and the County Code.

8. Development of the site as proposed is likely to require removal of most of the vegetation on the site. However the County Code does not prohibit such removal. This site and the surrounding area are zoned for single-family residential uses. Most vegetation on the site must be removed to develop roads, utilities and building sites at the required density. The examiner acknowledges the substantial, mature vegetation on the site. However the County Code allows removal of even substantial, mature trees. Nothing in the Code requires that the applicant modify the development in order to preserve additional trees on the site.

9. Development on this site will eliminate habitat for wildlife. But the County Code does not prohibit such an effect. On the contrary, it is an inevitable consequence of concentrating new development in the urban area. None of the animals observed on this site is listed as endangered or threatened. They are commonly observed in the urban area. Their presence is less likely after the site is developed, but that is to be expected.

10. It was argued that the applicant should be required to install a fence along the boundary of the site to protect the privacy of existing homes adjoining the site.

a. The examiner notes that the County Code does not contain standards for determining where a fence should be required as a condition of approval of proposed subdivision. CCC 40.320 contains standards for landscaping and screening. Based on Table 40.320-1, screening or buffering is not required where single-family detached homes adjoin other single-family detached homes. Therefore based on adopted County policy, a fence is not required in the circumstances presented by this case, which will result in adjoining single-family developments.

b. The examiner finds that a condition of approval requiring the applicant to install a fence is not warranted in this case. The applicant is proposing to develop lots for single-family homes next to existing single-family homes. The owners of abutting properties and the future residents of this site are free to provide fences, hedges or buffers on their own property if they desire additional privacy.

11. Proposed lots 7, 25, and 29 do not meet the minimum average lot depth for the R1-6 zone of 90 feet. Therefore the applicant must modify the preliminary plat to enlarge the lots or obtain approval of a Type 1 administrative variance. The examiner cannot prohibit the applicant from submitting a variance application. If the applicant submits a variance application, the County must review it for compliance with the applicable approval criteria. The County must approve the application if it complies with the applicable criteria in CCC 40.550.020.A(3).

12. The site is located within a low probability area for containing cultural resources. If any cultural resources are discovered in the course of construction, state and federal law impose variety of notice and reporting requirements. Failure to comply with these State requirements may constitute a Class C felony, subject to imprisonment and/or fines. The examiner has no authority to impose any additional reporting requirements as a condition of this approval.

13. The examiner understands residents' displeasure with the growth around them, but this growth was foreseeable and is in the broader public's interest. This area has been zoned R1-6 for many years. As large lots are sold, presumably they will be developed. The examiner finds that objections to the proposed lot sizes and density are not well taken, because the density and dimensions of proposed lots comply with the comprehensive plan map designation and zoning of the property.

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that PLD 2004-00077 and SEP 2004-00138 (Sherwood Hollow West) and related applications should be approved, because it does or can comply with the applicable standards of the Clark County Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

E. DECISION

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PLD 2004-00077 and SEP 2004-00138 (Sherwood Hollow West) and related applications in general conformance with the applicant's proposal, preliminary site plans (Exhibit 5) and the plans and reports associated with this proposal (Exhibits 6, 7 and 8). This approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "applicant") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

A. Conditions that must be met <u>prior to Final Plat Approval</u>

- A-1** The plat shall be amended so that proposed lots 7, 25, and 29 meet the minimum average lot depth for the R1-6 zone of 90 feet, in accordance with CCC Table 40.220.010-2; or the applicant shall obtain approval of a Type 1 administrative variance, in accordance with CCC 40.550.020, to reduce the lot depth as shown.
- A-2** Prior to demolition of any existing structures on the site, the applicant shall obtain approval of a demolition permit from the Clark County Building Department. The applicant shall comply with all applicable asbestos inspection and control regulations, in accordance with the procedures of the Southwest Clean Air Agency.
- A-3** The applicant shall reimburse the county for the cost of concurrency modeling incurred in determining the impact of the proposed development, in an amount not to exceed \$1,500. The reimbursement shall be made within 60 days of issuance of the staff report, with evidence of payment presented to staff at Clark County Public Works.
- A-4** The applicant shall ensure County Department of Public Works-Transportation approval of a signing and striping plan for improvements to the intersection of NE 23rd Avenue and NE 99th Street, and a reimbursable work order authorizing Clark County Road Operations to perform the required signing and striping within the county right-of-way prior to final plat approval.
- A-5** The project shall extend the pavement along NE 104th Street beyond the property frontage to match the existing roadway to the east and west of the site with taper rates approved by the county.
- A-6** The applicant shall amend the TIR for the existing facilities to show that these facilities and the downstream conveyance systems are sized to receive additional runoff from this development; and that no adverse impacts will result due to runoff from this development. The applicant shall be responsible for any modification requirements that may be triggered by this development.

- A-7** An offsite analysis for water quality impacts, extending a minimum of one-fourth mile downstream from the development site, shall be required.
- A-8** Fire flow in the amount of 1,000 gallons per minute supplied at 20 PSI for 60 minutes duration is required for this development. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. Fire hydrants shall be provided with appropriate “Storz” adapters for the pumper connection. A six-foot clear space shall be provided and maintained around every fire hydrant.
- A-9** The applicant shall provide documentation from Clark Public Utilities and the Hazel Dell Sewer District that water and sewer connections to the new lots have been installed and approved.

B. Conditions that must be met prior to issuance of Building Permits

- B-1** The applicant shall ensure the installation of separate southbound left and right turn lanes (and all related features) on NE 23rd Avenue at its intersection with NE 99th Street, and provide for minimum vehicle storage, unless otherwise directed by the Director of Public Works. The turn lane shall be operational according to approved plans prior to the issuance of building permits.
- B-2** Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

The applicant shall maintain all existing signs within the public right-of-way within the limits of the development's construction until the public roads have been accepted by the county. The developer shall install and maintain temporary signs where the development's signing and striping plan shows new or modified warning or regulatory signs. New or modified temporary signing shall be installed when any connection is made to the public road network. The developer shall remove the temporary signs immediately after the county installs the permanent signing and striping.

- B-3** Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process.
- B-4** Impact fees shall be paid prior to issuance of a building permit for each lot, as follows; PROVIDED, one lot (to be so indicated on the plat) may be exempt from impact fees as credit for the existing dwelling being removed:
- Traffic Impact Fees: \$1,325.92 (Hazel Dell TIF sub-area)
 - Park Impact Fees: \$1,800.00 (Park District #8)
(\$1,360 – Acquisition/\$440 –

Development)

- School Impact Fees: \$1,725.00 (Vancouver School Dist)

If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees shall be recalculated according to the then-current ordinance rate.

- B-5** Prior to any excavation and construction on the site, the applicant shall notify the contractors to be alert for contamination on the site. If contamination is discovered, it shall be reported to the Washington Department of Ecology. Sampling of the potentially contaminated media shall be conducted. Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300

C. Notes Required on Final Plat
--

The following notes shall be placed on the final plat:

Zoning:

- C-1** "Dwellings and other structures on the lots in this plat shall be constructed in accordance with the setbacks, height regulations, lot coverage, parking standards, and other applicable standards for the R1-6 zone in CCC 40.220.010."

Impact Fees:

- C-2** "In accordance with CCC 40.610 & 40.620, (except for Lot [REDACTED], exempt as credit for the existing dwelling removed from the site) the School, Park, and Traffic Impact Fees for each dwelling in this subdivision are respectively: \$1,725.00 (Vancouver School Dist), \$1,800.00 (Park District #8) (\$1,360 – Acquisition; \$440 – Development), and \$1,325.92 (Hazel Dell TIF sub-area). The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule."

Archaeological:

- C-3** "If any cultural resources are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

Sidewalks:

- C-4** "Prior to issuance of an occupancy permit for each lot in this plat, sidewalks shall be constructed along the lot frontage."

Mobile Homes:

- C-5** "Mobile homes are prohibited on the lots in this subdivision in accordance with CCC 40.260.130."

Critical Aquifer Recharge Areas:

- C-6** "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

Erosion Control:

- C-7** "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."

Utilities:

- C-8** "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."

Driveways:

- C-9** "All residential driveway approaches entering public roads are required to comply with CCC 40.350."

Privately Owned Stormwater Facilities:

- C-10** "The Developer or the Home Owners Association is responsible for long-term maintenance of the privately owned stormwater facilities."

D. Standard Conditions

This development proposal shall conform to all applicable sections of the Clark County Code. The following conditions shall also apply:

Land Division:

- D-1** Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

Final Construction Plan Review:

- D-2** Prior to construction, the applicant shall submit and obtain county approval of a final stormwater plan designed in conformance to CCC 40.380.
- D-3** Prior to construction, the applicant shall submit and obtain county approval of a final transportation design in conformance to CCC 40.350.

Pre-Construction Conference:

- D-4** Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the county.

Erosion Control:

- D-5** Prior to construction, the applicant shall submit and obtain county approval of a final erosion control plan designed in accordance with CCC 40.380.
- D-6** A copy of the approved erosion control plan shall be submitted to the Chief Building Official prior to final plat recording.
- D-7** Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.
- D-8** Erosion control facilities shall **not** be removed without county approval.

Excavation and Grading:

- D-9** Excavation/grading shall be performed in compliance with Appendix Chapter 33 of the Uniform Building Code (UBC).
- D-10** Site excavation/grading shall be accomplished, and drainage facilities shall be provided, in order to ensure that building foundations and footing elevations can comply with CCC 14.04.252.

DATED this _____ day of December, 2004.

Joe Turner, AICP, Hearings Examiner